

**MINUTES**  
**IN THE UNITED STATES DISTRICT COURT FOR THE**  
**MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION**

**HON. SUSAN R. WALKER, MAG. JUDGE      AT      MONTGOMERY, ALABAMA**

**DATE COMMENCED:      3/9/07                      AT      4:31 p.m. to 4:39 p.m.**

**DATE COMPLETED:      3/9/07                      AT      Digital Recorded**

UNITED STATES OF AMERICA

Plaintiff

VS.

CARRIE J. FLOWERS

Defendant

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CASE NO.: 2:06CR-178-SRW

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**GOVERNMENT**

**APPEARANCES:**

**DEFENDANT**

Capt. Aaron Drake

Atty. Ron Wise

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**COURT OFFICIALS PRESENT:**

**COURTROOM DEPUTY: WANDA STINSON**

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( X ) OTHER PROCEEDINGS: **Telephone Conference**

**SEE MINUTES ATTACHED**

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED			
<b>Description</b>	Telephone Conference - 05cr178-SRW		
<b>Date</b>	3 / 9 /2007	<b>Location</b>	Courtroom 5B
<b>Time</b>	<b>Speaker</b>	<b>Note</b>	
4 :31:52 PM	Court	Conference call begins; parties on line as noted; Discussion as to matters re: the trial to begin on Monday and a possible request for continuance;	
4 :33:09 PM	Atty. Wise	Addresses the court that he was supplied a CD this afternoon that is video only; that takes pictures; that has not been supplied before; Do not have to review it and adequately be able to advise client on what to do;	
4 :33:53 PM	Court	You are asking that the trial be moved?	
4 :33:57 PM	Atty. Wise	Yes mam;	
4 :33:57 PM	Court	Capt. Drake;	
4 :33:59 PM	Capt. Drake	Addressed the court in agreement with Atty. Wise;	
4 :34:03 PM	Court	Discussion with Capt Drake as to what cause him to turn over a CD at the eleveth hour on Friday, before a Monday trial;	
4 :34:11 PM	Capt Drake	It was only discovered today;	
4 :34:14 PM	Court	What do you mean, it was discovered only today? I assume your witness had it in hand;	
4 :34:14 PM	Capt. Drake	It was in the file at the store, it's a more complete version of the evidence then what was previously had by the government or by the defense;	
4 :34:31 PM	Court	What did you have at hand before?	
4 :34:33 PM	Capt Drake	A video cassette; which had been recorded; It's the same incident but its' a different angle; The government was prepared to proceed with what we had provided defense previously and just today we learned that there existed this new version of the recording of the same day;	
4 :34:57 PM	Court	How did you learn that?	
4 :34:57 PM	Capt Drake	I discussed it with the loss prevention experts at the BX;	
4 :35:05 PM	Court	How did it come up in the discussion?	
4 :35:05 PM	Capt. Drake	We reviewing the video that was previously supplied to defense and said that I understood the better video of it then this, and I thought that I had seen it and they said no what we got out of the evidence locker of the security forces;	
4 :35:37 PM	Court	This is really unexceptable; Discussion as to the discovery deadline in the arraignment order; The court will grant the motion to continue, Mr. Wise is entitled to that as he has not seen this evidence; Discussions of jurors coming from places like Dothan and Opelika; my chamber had to prepare jury charges and I have had to look at voir dire; A great deal of work has gone on to get us ready for trial on Monday;	
4 :36:46 PM	Capt. Drake	Addresses the court to proceed without the video evidence;	

4 :36:52 PM	Court	That's unfortunately not sufficient; Mr. Wise may want to use it;
4 :36:58 PM	Atty. Wise	The CD has got a lot on it;
4 :37:29 PM	Court	Response;
4 :37:51 PM	Atty. Wise	Not questionning Capt. Drake's work;
4 :37:56 PM	Court	This should have taken place earlier; Had we come in on Monday and I'd found out about this and the jury had been empaneled, you would have been paying between \$1200 and \$3000 as a sanctions; The court will continue the trial and reset it for the next misdemeanor trial term which is May 7th, 2007; Discussion as to whether the video may change defts view or will have a trial under any circumstance?;
4 :39:00 PM	Atty. Wise	I do not know; Not sure that it's going the change defts mind, but until she sees it and sit down and discuss what we are watching, she could certainly tell me alot more about what we are watching;
4 :39:21 PM	Court	Ok. Yall can let me know. Court will enter an order continuing the trial;
4 :39:34 PM	Court	Conference call ends.